

SN:09759,758

01  
filing date of this application. This deposit of the Inbred Maize Line PH5HK will be maintained in the ATCC depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the effective life of the patent, whichever is longer, and will be replaced if it becomes nonviable during that period. Additionally, Applicant has satisfied all the requirements of 37 C.F.R. §§1.801 - 1.809, including providing an indication of the viability of the sample. Applicant imposes no restrictions on the availability of the deposited material from the ATCC; however, Applicant has no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicant does not waive any infringement of his rights granted under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.). U.S. Plant Variety Protection of Inbred Maize Line PH5HK has been applied for under Application No. 200200009.

#### IN THE CLAIMS

Please cancel claims 33, 45, and 46.

Please amend claims 1, 3, 5, 6, 14, 16, 19, 20, 21, 22, 24, 25, 35, 37, 40, 41, 42, 43, 48, and 49 as follows:

- a2
1. (Amended) Seed of maize inbred line designated PH5HK, representative seed of said line having been deposited under ATCC Accession No. PTA-4433.
- a3
3. (Amended) The maize plant of claim 2 further comprising a genetic factor conferring male sterility.
- a4
5. (Amended) A tissue culture according to claim 4, cells or protoplasts of the tissue culture being from a tissue selected from the group consisting of leaves, pollen, embryos, roots, root tips, anthers, silks, flowers, kernels, ears, cobs, husks, and stalks.
6. (Amended) A maize plant regenerated from the tissue culture of claim 4, capable of expressing all the morphological and physiological characteristics of inbred line PH5HK, representative seed of which have been deposited under ATCC Accession No. PTA-4433.

SN:03759,758

15  
14. (Amended) An inbred maize plant, or parts thereof, wherein said inbred maize plant was developed by a cross of the maize plant of claim 2 with a second maize plant, growing a progeny seed obtained from said cross, and repeating the steps of selfing and growing each subsequent generation to obtain said inbred maize plant.

16. (Amended) The method of claim 15 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

19. (Amended) The single gene conversion maize plant of claim 18, wherein the gene is a dominant allele.

20. (Amended) The single gene conversion maize plant of claim 18, wherein the gene is a recessive allele.

21. (Amended) A maize plant, or parts thereof, having all the physiological and morphological characteristics of inbred line PH5HK, representative seed of said line having been deposited under ATCC accession No. PTA-4433.

22. (Amended) The maize plant of claim 21 further comprising a genetic factor conferring male sterility.

24. (Amended) A tissue culture according to claim 23, cells or protoplasts of the tissue culture being from a tissue selected from the group consisting of leaves, pollen, embryos, roots, root tips, anthers, silks, flowers, kernels, ears, cobs, husks, and stalks.

25. (Amended) A maize plant regenerated from the tissue culture of claim 23, capable of expressing all the morphological and physiological characteristics of inbred line PH5HK, representative seed of which have been deposited under ATCC Accession No. PTA-4433.

SN:09759,758

36. (Amended) The method of claim 34 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

37. (Amended) A process for producing inbred PH5HK, representative seed of which have been deposited under ATCC Accession No. PTA-4433, comprising:

- (a) planting a collection of seed comprising seed of a hybrid, one of whose parents is inbred PH5HK said collection also comprising seed of said inbred;
- (b) growing plants from said collection of seed;
- (c) identifying said inbred PH5HK plants;
- (d) selecting said inbred PH5HK plant; and
- (e) controlling pollination in a manner which preserves the homozygosity of said inbred PH5HK plant.

40. (Amended) A method for producing a PH5HK-derived maize plant, comprising:

- (a) crossing inbred maize line PH5HK, representative seed of said line having been deposited under ATCC Accession No. PTA-4433, with a second maize plant to yield progeny maize seed;
- (b) growing said progeny maize seed, under plant growth conditions, to yield said PH5HK-derived maize plant.

41. (Amended) A PH5HK-derived maize plant, or parts thereof, produced by the method of claim 40.

42. (Amended) The method of claim 40, further comprising:

- (c) crossing said PH5HK-derived maize plant with itself to yield additional PH5HK-derived progeny maize seed;
- (d) growing said progeny maize seed of step (c) under plant growth conditions, to yield additional PH5HK-derived maize plants;
- (e) repeating the crossing and growing steps of (c) and (d) to generate further PH5HK-derived maize plants.